



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 5, 1997

Ms. Eugenia A. Cano
City Attorney
City of Alvin
216 W. Sealy
Alvin, Texas 77511

OR97-2661

Dear Ms. Cano:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 110650.

The City of Alvin (the "city"), which you represent, received a request for information concerning a shooting occurring on July 21, 1997 and involving the city police. You assert that the responsive documents are excepted from disclosure pursuant to sections 552.103 and 552.108 of the Government Code. The documents you seek to withhold from disclosure were submitted to this office.

Section 552.103(a), the "litigation exception," excepts from disclosure information relating to litigation to which the state is or may be a party. The city has the burden of providing relevant facts and documents to show that the section 552.103(a) exception is applicable in a particular situation. The test for meeting this burden is a showing that (1) litigation is pending or reasonably anticipated, and (2) the information at issue is related to that litigation. *Heard v. Houston Post Co.*, 684 S.W.2d 210, 212 (Tex. App.--Houston [1st Dist.] 1984, writ ref'd n.r.e.); Open Records Decision No. 551 (1990) at 4. The city must meet both prongs of this test for information to be excepted under section 552.103(a).

Under Open Records Decision No. 638 (1996), a governmental body may establish that litigation is reasonably anticipated by showing that (1) it has received a claim letter from an allegedly injured party or his attorney, and (2) the governmental body states that the letter complies with the notice of claim provisions of the Texas Tort Claims Act ("TTCA") or applicable municipal statute or ordinance. You have submitted a letter to this office for review which you assert is a written claim from the allegedly injured party's attorney. Additionally, you state that the attorney is complying with the prerequisites for filing suit under the TTCA. We have reviewed the documents in question and conclude that they are

related to litigation. Consequently, you may withhold the documents under section 552.103(a) of the Government Code as related to the anticipated litigation.¹

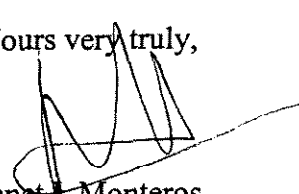
We note that section 552.103 may not be invoked to except front page offense report information, even where it is relevant to pending litigation, if the information has already been made available to the defendant in criminal litigation although we note that Open Records Decision No. 362 (1983) concludes that front page offense report information can never be excepted under section 552.103.

We further note that "basic information about an arrested person, an arrest, or a crime" is not excepted from required public disclosure. Gov't Code § 552.108(c). Basic information is the type of information that is considered to be front page offense report information even if this information is not actually located on the front page of the offense report. *See generally Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976).

We further note that documents filed with a court are generally considered to be public so that to the extent that some of the submitted documents are court-filed documents they must be released. *See Star Telegram, Inc. v. Walker*, 834 S.W.2d 54, 57 (Tex. 1992); *see also* Open Records Decision No. 287 (1981).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Janet J. Monteros
Assistant Attorney General
Open Records Division

JIM/glg

Ref.: ID# 110650

¹As we address your claim under section 552.103, we need not address the other exception raised.

Enclosures: Submitted documents

cc: Mr. Owen Jones
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(w/o enclosures)